IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITON NO.548 OF 1993

Jain Irrigation Systems Ltd. ..Petitioners.
V/s.
Union of India & Ors. ..Respondents.

Mr.Kamal Parsurampura for petitioners.
Mr.S.M.Shah with A.S.Rao for respondents.

CORAM : Dr.S.RADHAKRISHNAN & J.P.DEVADHAR, JJ.

DATED : 31TH JANUARY, 2006.

P.C. :-

1. Heard learned counsel for the petitioners and the respondents.

2. Under the Export-Import Policy of 1992-97, the Petitioners being an 100% Export Oriented Unit were entitled to import the raw materials and store them in a bonded warehouse and on manufacture, export the final product directly from the warehouse.

3. In the present case, the Petitioners had imported certain goods and stored it in the bonded warehouse by filing the bill of entry for warehousing. There is also no dispute that the petitioners had utilized the said imported goods in the manufacture of final products and have infact exported the final goods, directly from the bonded warehouse.

4. In the present case, although the imported goods have not been cleared for home consumption by filing a bill of entry for home consumption, it appears that on the basis of the assessment on the bond bill of entry, the respondents are trying to recover the anti-dumping duty leviable on the imported goods as per the Notification No.3 of 1983.

5. Although the Petitioners have challenged the validity of the Notification No.3 of 1993, it is not necessary to go into the said question, because, in the present case it is an admitted position that the imported goods have not been cleared for home consumption and, therefore, the question of levying the anti-dumping duty on the said goods does not arise at all. Therefore, demand for payment of anti-dumping duty based on the assessment passed on the bond bill of entry cannot be sustained.

6. In the result, the petition succeeds. Rule is made absolute in terms of prayer (b). The bond furnished by the Petitioners pursuant to the interim order is liable to be cancelled by the respondents. Petition is disposed of accordingly, with no order as to costs.

(Dr.S.RADHAKRISHNAN,J.)

(J. P. DEVADHAR, J.)